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## VIA FACSIMILE & U.S. MAIL

Fax No. (916) 322-6440

Fair Political Practices Commission  
Attention: Brian Lau  
428 J Street, Suite 800  
Sacramento, California 95814

Re: Comments of Laborers Local 300 Concerning Proposed Regulation 18440

Dear Mr. Lau:

This law firm is counsel to Laborers' International Union of North America, Local Union 300 (Local 300). Local 300 is a labor organization with over 7,000 members, largely living in Los Angeles County. Local 300 has a sponsored committee and, thus, restricts its expenditures from its general treasury to communications with its members and their families. Because of the size of its membership, such communications often take the form of pre-recorded telephone calls. As such, Local 300 is particularly interested in the impact of proposed 2 C.C.R. Section 18440 (Proposed Regulation) on organizations, such as itself, which are not major donors and which confine their general treasury political expenditures to membership communications.

For the reasons which follow, Local 300 submits that the Proposed Regulation should be amended to make explicit that the disclosure requirements only apply to candidates, committees and slate mailer organizations and not to individuals or other entities which are not candidates, committees, or slate mailer organizations. The proposed regulation should also exempt member communications paid for by an entity other than a "committee" from the requirement in proposed Section 18440(d) that a record of the script or a copy of the recording of any recorded message be provided to, and maintained by, the authorizing candidate or committee.

**I. The Proposed Regulation Should Explicitly Set Forth Its Inapplicability to Individuals and Other Entities Which are Not Candidates, Committees, or Slate Mailer Organizations.**

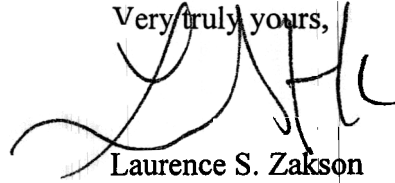
Under Government Code Section 84310, a candidate, committee or slate mailer organization may not use "campaign funds" to pay for 500 or more substantially similar telephone calls unless it includes in its message a statutorily prescribed disclosure of a candidate, committee or slate mailer organization paying for the calls or a candidate or committee authorizing the calls. Section 84310 further provides that a candidate, committee or slate mailer organization that pays for such a call must also maintain a record of the script of the call and, if the call consisted of a recorded message, must also maintain a copy of the recording. Thus, by its terms, the statute does not require an individual (other than a candidate) who, or an organization which, is not a committee--either a recipient committee or a major donor committee--to include such disclosures or to maintain such records. The regulation should explicitly spell this out. Such an explicit exception is especially important for those organizations which may engage in extensive membership communications, but otherwise make no political expenditures from their organizational treasuries.

**II. The Proposed Regulation Should Exempt Member Communications by Entities Other than a "Committee" from Requirements of Section 18440(d).**

Subsection (a) of proposed Section 18440 provides that where a call is "at the behest of a candidate or committee and [the] . . . payment qualifies as a contribution to the candidate or committee," the candidate or committee at whose behest the call is being made is considered to have paid for the calls. Although it is not entirely clear that this is the proper construction of Government Code Section 84310(c), Local 300 takes no position on the propriety of this provision. Assuming this to be a permissible reading of the statute, Subsection (d) of the Proposed Regulation would then correctly provide that where payment for a call is properly characterized as a contribution to the candidate/committee, a candidate/committee who/which has authorized a call must maintain a record of the script of, and a copy of the recording of any pre-recorded message in, such a call. However, nothing in the statute or the construction of it in proposed Section 18440(a) supports the imposition of a requirement on the candidate/committee to maintain such records with respect to a membership communication paid for by an entity other than a committee, even if the membership communication is at the behest of the candidate, because no campaign funds are expended in such a communication and no contribution to the candidate results. And given that, in this circumstance, there is no statutory basis for imposing the records maintenance requirement on the authorizing candidate/committee, there cannot be a statutory predicate for imposing on the "sender" of the calls a requirement to provide such scripts and/or recordings to the candidate/committee authorizing the calls. Accordingly, the proposed regulation should also exempt member communications paid for by an entity other than a committee from the requirement in proposed Section 18440(d) that a record of the script or a copy of the recording of any recorded message be provided to, and maintained by, the authorizing candidate or committee.

On behalf of Laborers Local 300, I thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'LSZ', written over the typed name.

Laurence S. Zakson  
of REICH, ADELL, CROST & CVITAN

LSZ/ws/mc  
cc: Sergio Rascon